



Wisconsin Freedom of Information Council

DEVOTED TO PROTECTING WISCONSIN'S TRADITION OF OPEN GOVERNMENT

Sen. Fred Risser, chair
Committee on Ethics Reform
and Government Operations

Jan. 20, 2010

Dear Sen. Risser and members of the committee,

The Wisconsin Freedom of Information Council, a statewide group that strives to protect public access to government meetings and records, would like to express its strong support for Senate Bill 426. We believe this bill represents a sensible and necessary clarification of existing law.

Several years ago, the Council filed an amicus brief in the WIREdata case, a dispute over records maintained by a contractor on behalf of a governmental unit. The Wisconsin Supreme Court affirmed that these records are public and must be produced on request. But its ruling left unresolved issues regarding the cost of these records and the format in which they must be provided.

Senate Bill 426 corrects both problems. It requires that the contractor may charge only the actual cost of reproducing records, the same standard that applies to governments under the state's Open Records Law. It also requires that these records be provided in the format in which they are kept, if so requested.

Both changes would merely correct what appear to be unintentional loopholes in the wording of the applicable statutes. Both would hold contractors to the same level of compliance as the government agencies that hire them to do the public's business.

Wisconsin Statute 19.36 (3) states that an entity with whom an authority contracts must provide access to public records "to the same extent as if the record were maintained by the authority." This strongly suggests a legislative intent to have parity between records maintained by government agencies and records maintained by contractors on behalf of government agencies.

But this intent has been confounded by the charging of high fees and in a format other than that in which it is kept (and therefore most useful). This has caused needless cost and frustration to those seeking access to public information.

For these reasons, Senate Bill 426 deserves your support.

Bill Lueders, president
Wisconsin Freedom of
Information Council